

HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.9572 of 1996

07-02-2006

Between:

The Depot Manager,
APSRTC, Sangareddy Depot,
Medak Dist.

... Petitioner

and

The Presiding Officer,
Labour Court, Hyderabad, and another.

... Respondents

HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.9572 of 1996

ORDER:

The Andhra Pradesh State Road Corporation filed the writ petition questioning the award made by the Labour Court, Hyderabad, in I.D.No.386 of 1992 dated 28-06-1995.

The brief facts of the case are that the first respondent while working as Conductor on the route Sadasivpet to Atmakur, was found to have committed some cash and ticket irregularities when a surprise check was made by the officials. Thereafter, he was charge-sheeted for such irregularities and he had submitted explanation. The first respondent was kept under suspension and a detailed enquiry was ordered. The Enquiry Officer found the workman guilty of the charges and a show cause notice was issued and thereafter, he was removed from service after considering his explanation. The first respondent raised the I.D. before the Labour Court.

Heard learned counsel for the parties and perused the record.

A perusal of the impugned award shows that the workman had specifically denied the re-issuance of ticket and the enquiry was held to be invalid. Both the sides have not adduced any evidence. When the officials have checked the Conductor in the bus, the Corporation could have examined them in support of its case, but it had not chosen to do so. In the absence of sufficient material on record, the enquiry was held

as invalid. In these circumstances, the Labour Court rightly held that the penalty of dismissal is uncalled for and excessive.

Admittedly, the officials of the Corporation have checked the bus and found certain irregularities basing on which the first respondent had been issued charge-sheet, which was followed by domestic enquiry in which the workman participated. The stand of the Corporation is that the show cause notice along with all necessary documents was sent to the workman vide registered post acknowledgement due, but the workman did not submit any explanation. In the absence of examination of any witness by the Corporation before the Tribunal and the insufficient material on record, I deem it just and proper to confirm the award of the Labour Court to the extent of reinstatement of workman into service.

However, the workman was out of service and he was paid subsistence allowance during the suspension period and subsequently, he was removed from service. Further, the workman has not worked for the Corporation during the period he was out of service and he was practically not on the rolls of the Corporation. The workman in such circumstances cannot be granted continuity of service. Having regard to the facts and circumstances, the interest of justice would be met by directing the Corporation to reinstate the first respondent workman into service but without continuity of service and attendant benefits and also without back wages.

The writ petition is accordingly disposed of. No order as to costs.

07-02-2006

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